

The Secretary  
Federal Communications Commission  
1919 M. Street N.W. Room 222  
Washington, DC 20554

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In the Matter of

Guidelines for Evaluating the Environmental ) ET-Docket No. 93-62  
Effects of Radiofrequency Radiation )

To: The Secretary:

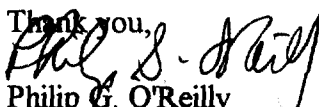
Dear Mr. Secretary, 

Re: - My **ex parte #3** comment in ET-Docket 93-62 (original + 1 copy)

In accordance with 47 CFR §1.1202, 1.1203, and 1.1206, enclosed please find an original and 1 copy of an **ex parte** submission made to Dr. Robert F. Cleveland of the Commission Office of Engineering and Technology and with copies sent to parties on the attached certificate of service, being submitted

Please assure this submittal is put in the official record of ET-Docket 93-62.

Thank you,

  
Philip G. O'Reilly  
4847 South Graham  
Seattle, WA 98118

Dated: March 18, 1998

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Philip G. O'Reilly  
4847 South Graham  
Seattle, WA 98118

March 18, 1998

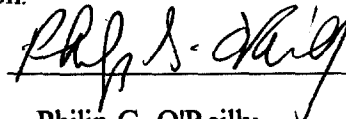
Dr. Robert Cleveland Jr.  
Office of Engineering and Technology  
Federal Communications Commission  
2000 M Street N.W. Room 266  
Washington, D.C. 20554  
FAX: (202) 418-1918

Re: ET Docket 93-62, October 14, 1997 Petition for Partial Reconsideration and/or  
Clarification of Ameritech

**Ex parte #3** Presentation in ET-Docket 93-62, original and 1 copy filed with the  
Secretary of the Commission in accordance with 47 CFR §1.1202, 1.1203, and 1.1206.

I wish to support in part the October 14, 1997 Petition for Reconsideration and/or  
Clarification of Ameritech for the reasons which follow.

Thank you for giving this matter your consideration.

  
Philip G. O'Reilly

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**

Washington, DC 20554

In the Matter of	)	
	)	ET Docket No. 93-62
Guidelines for Evaluating the Environmental	)	
Effects of Radiofrequency Radiation	)	

**EX PARTE #2**

**COMMENT IN PARTIAL SUPPORT OF**

**PETITION FOR PARTIAL RECONSIDERATION AND/OR CLARIFICATION OF  
AMERITECH MOBILE COMMUNICATIONS, INC.**

I, Philip G. O'Reilly, hereby submit an ~~ex parte~~ comment, in accordance with 47 CFR Sections 1.1202, 1.1203, and 1.1206, in support of certain requests in the Petition For Partial Reconsideration And/Or Clarification Of Ameritech Mobile Communications, Inc. filed October 14, 1997 seeking reconsideration of the Commission's Second Memorandum Opinion and Order in ET-Docket 93-62.

**A. Highlights**

The comments of numerous telecommunications operators make it clear that the Commission must provide an up to date database providing the information needed, so that it is possible to estimate what the maximum exposure in a local geographic area is. Moreover, since neither telecommunications companies nor site owners or managers can be relied upon to properly manage a site area to assure compliance, the Commission must provide a means for this to occur - one way being to license competent parties who would have the authority to maintain information and to require compliance, especially in the case of workers who may be exposed on rooftops or other areas near antenna farms where operators of different companies would unlikely be able to coordinate maintaining exposures at the appropriate levels.

Regarding obtaining the needed information, the Commission's own licensees repeatedly have told the Commission that they cannot on a practical basis assure compliance without a comprehensive up to date database. Accordingly, for the Commission to order the implementation of a system which its licensees repeatedly claim they cannot meet due to the lack of needed information which the Commission continues to refuse to establish, constitutes an arbitrary and capricious order, insofar as the Commission is ordering what its licensees say that cannot do, and the Commission is not providing a means to overcome the obstacle.

Therefore, the Commission must provide such an information system in order for the implementation of its guidelines to be effective and lawful, thereby meeting the needs of Ameritech, the public, and local jurisdictions that need to assure their constituents that exposure limits are not exceeded..

**B. Ameritech requests a system providing Ameritech information needed to help assure its being in compliance:**

Ameritech requests that, *"The Commission should place certain limited responsibilities for compliance on site owners."* [Ameritech 1997 Petition at 7], and specifically requests site owners *"make available to current and prospective site users information about other facilities on the tower or building,"* and that *"future tenants perform an RF compliance evaluation"* which is sent to existing users.[Ameritech 1997 Petition at 7].

**C. Many telecommunications companies state that presently available information is insufficient to assure compliance.**

Ameritech noted the above concern in its Petition of Reconsideration filed September 6, 1996 ("Ameritech Petition") with regard to the above Report and Order. There Ameritech reported to the Commission,

*"The Commission's new RF radiation standards require for the first time that paging, cellular, and other CMRS licensees evaluate the impact of their facilities in combination with all other operations on the same rooftop or tower. It be burdensome and in some case impossible*

for licensees to meet this requirement....Moreover, it is difficult if not impossible for an individual licensee to be aware of changes that may cause an antenna site to fall out of compliance with the RF radiation standard, since paging fill-in transmitters can be established at a given site without the filing of an application or notification to the Commission." [Ameritech Petition at 12] (emphasis added).

Since site owners may own business property managed by others or own residential property without any manager, it may be difficult to require such owners directly *"make available information about other facilities on the tower or building."* Moreover, since each building of a group of nearby buildings may have transmitters, to properly predict exposure, the contribution of each transmitter to the total exposure needs to be considered.

AT&T Wireless Services, Inc ("AT&T") reported to the Commission in its petition for reconsideration of FCC Rule and Order in ET-Docket 93-62 and dated September 6, 1997 [AT&T Petition] that,

*"because of the lack of any central database, identifying the licensees of nearby transmitters or their operating power and frequency may be very difficult."* [AT&T Petition at 6].

AT&T also states that, *"the licensee may not be informed about the addition of new transmitters or the modification of an existing transmitter that could result in site-wide non-compliance at a previously complying site."* [AT&T Petition at 7].

Likewise, in addition to Ameritech and AT&T, in the September 6, 1996 Petition for Reconsideration of the Personal Communications Industry Association, [PCIA Petition], it is reported,

*"As an initial matter, determining the licensee of nearby facilities may prove challenging, especially for smaller carriers, and determining the power and frequency of operation of a particular nearby transmitter may be impossible. There are numerous facilities, for example, where no filings are required at the FCC at all, and no publicly available, verifiable documentation of the facility's characteristics may exist...Given that a carrier may have no control over the property of the site, the carrier may not be notified, much less consulted, at the*

*time a subsequent transmitter is added or an existing transmitter modified."* [PCIA Petition at 15,16]

In a similar fashion, in the Petition for Reconsideration of AirTouch Communications, Inc. ("AirTouch") filed September 6, 1996, it is reported,

*"A licensee operating a single transmission facility among numerous co-located facilities can gather all necessary site information, if at all, only at great expense....A licensee has no comparable mechanism for compiling and maintaining current information, short of constant monitoring of the site."* [AirTouch Petition at 6] (emphasis added).

#### **D. Discussion:**

Since it is also correct that site owners are often persons with little or no technical or business skills, and may include elderly persons in the care of others, the Commission must make it a requirement of the facility operators to report information into an appropriate database and to inform site owners that site owners must have evidence of such reporting before a siting agreement may take effect.

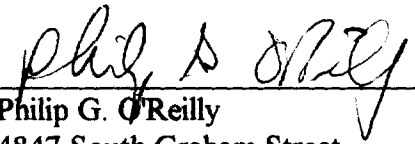
Thus, the Commission must recognize that the Commission must modify its rules to provide an information system for the purpose of resolving the difficulties of Ameritech, AT&T, PCIA, and AirTouch, and to provide the appropriate requirement resulting in a database that will meet the information needs required to implement the Commission's guidelines. Such a database would allow members of the public, whether perspective telecommunications facility operator, government agency, business whose employees or customers may be exposed to RF from nearby transmitting antennas, or school, hospital, or home owner to know of the RF sources nearby.

If the Commission will not so establish the above database, then it is ordering its licensees to do what they report they report they cannot do, such a decision lacks a rational basis. Indeed, such action by the Commission would be arbitrary, capricious, and without a rational basis - to require rules which its own licensees emphasize they cannot meet.

#### **E. Conclusion:**

Given the above, the Commission must provide a system for the needed database which would be readily available at minimum cost to any interested party.

Respectfully submitted,

  
Philip G. O'Reilly  
4847 South Graham Street  
Seattle, WA 98118

Dated: March 18, 1998

### **Certificate of Service**

I, Philip G. O'Reilly, hereby certify that I have on this 18th day of March, 1998, sent by first class mail, postage pre-paid, a copy of the foregoing ex parte comments to the following parties:

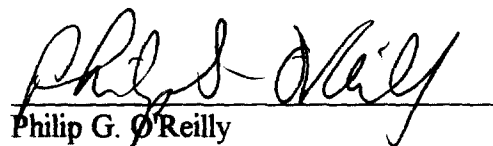
Dennis L. Myers, Vice President and  
General Counsel  
Ameritech Mobile Communications, Inc.  
2000 West Ameritech Center Drive  
Location 3H78  
Hoffman Estates, Illinois 60195      Tel: (847) 765-5715

John A. Prendergast  
Blooston, Mordkofsky, Jackson & Dickens  
2120 L Street, Suite 300  
Washington, D.C. 20037      Tel: (202) 659-0830

Mr. Robert Cleveland  
Office of Engineering and Technology  
Federal Communications Commission  
2000 M. Street N.W. Room 266  
Washington, D.C. 20554

Daniel Phythyon, Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M. Street N.W. Room 5002  
Washington D.C., 20554

David Furth, Chief  
Commercial Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, N.W. Room 70002  
Washington D.C. 20554

  
Philip G. O'Reilly